

# **Responding to Hate:**

**Rights**



**Remedies**



**Prevention Strategies**



**January 2003**  
**Dennis Hayashi, Director**



# Responding to Hate:

Rights



Remedies



Prevention Strategies

**Gray Davis, Governor**  
*State of California*

**Aileen Adams, Secretary**  
*State and Consumer Services Agency*

**Dennis Hayashi, Director**  
*Department of Fair Employment and Housing*

**January 2003**

# MESSAGE FROM THE DIRECTOR

It is with great pride that the Department of Fair Employment and Housing releases this important publication, ***"Responding to Hate: Rights, Remedies and Prevention Strategies."*** As we all know, California has the most diverse population in the nation. However, it is also true that amidst this diversity, intolerance continues to exist, at times manifesting itself in acts or expressions of hate.



From the beginning, the Davis Administration has committed itself to ensuring that such divisive acts of intolerance are addressed. From establishing a bipartisan blue-ribbon commission to make recommendations to address combating hate violence, to establishing a DFEH hate violence telephone hotline to directly field public complaints and expeditiously address them, the Davis Administration has lead the effort to ensure that all Californians are protected from bias-related incidents.

This manual is a guide to addressing hate violence: what to do if you're a victim, why hate violence occurs, how communities have tried to address intolerance, and what community organizations are equipped to provide assistance. We hope that the information contained herein not only raises California's awareness of this issue, but provides the tools to proactively, and successfully, address it.

Dennis Hayashi  
Director

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## **Purpose of this Guide**

### **Definitions**

What is hate violence?  
What is a hate crime?

## **How the California Department of Fair Employment and Housing Addresses Hate Violence**

Public Education  
Enforcement

## **How to File a Complaint with DFEH**

What happens when I call DFEH?

# INTRODUCTION

## PURPOSE OF THIS GUIDE

This guide is designed to help you if:

1. You are a victim or witness to hate violence or know someone who is.
2. You want to help prevent and respond to hate violence in your community.

## DEFINITIONS

### WHAT IS HATE VIOLENCE?

Acts that are done to emotionally or physically harm someone or damage their property because they possess certain characteristics, referred to herein as their “identity,” are acts of hate violence. In California, identities protected under the Ralph Civil Rights Act are sex, race, color, ancestry, religion, national origin, age, sexual orientation, disability, political affiliation, or position in a labor dispute. For example, someone trying to intimidate his neighbors because of their race is committing hate violence. The term “hate violence” is used to describe a type of conduct whether or not it violates criminal law.



### WHAT IS A HATE CRIME?

When a crime is committed against someone because of his or her identity, and that identity is protected by hate crime laws, the crime is referred to as a hate crime. In California, identities protected by hate crime laws are race, color, religion, ancestry, gender, sexual orientation, or having a disability.

#### **There are two requirements that need to be met before an act can be considered a hate crime:**

- 1) A crime needs to be committed. An act is a crime when it violates criminal law. No matter how hateful an act is, unless it is prohibited by criminal law, it is not a crime.

Not all acts of hate violence are crimes. Depending on the circumstances, using racist epithets against people and intimidating them may not be a crime, but it is hate violence.

- 2) The crime needs to be committed because of the victim’s race, ethnicity, religion, gender, sexual orientation, or because the victim has a disability.

A crime is not a hate crime unless the crime is:

- a) committed substantially because of the identity of the person it is directed against
- b) the identity is specified in hate crime legislation.

A crime committed against someone because s/he is homeless is not a hate crime because being homeless is not an identity protected by hate crime laws. A crime committed against someone because she is a woman is a hate crime because gender is an identity protected by hate crime laws in California.



Hate crimes may be committed against property as well as against people. For example, if someone writes slurs and threats on a home because of the religion of the residents, the act is a hate crime. It is a crime to damage someone's property and it is a hate crime because they have an identity (in this case, religion) that is protected by law.

Crimes may be committed for more than one reason. Police determine whether a crime should be classified as a hate crime by considering whether a substantial cause of the crime was because of the victim's identity. For example, if an individual assaults a man who bumped his car, a crime has been committed. If there is evidence that one of the main reasons the individual attacked the man was because of his ethnicity, a hate crime was committed. If the attack would have been carried out regardless of the victim's identity it would still be a crime, but it would not be a hate crime.

## HOW THE CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING ADDRESSES HATE VIOLENCE

**T**he California Department of Fair Employment and Housing (DFEH) is the state agency empowered to enforce civil hate crime violations and to provide remedies for victims of hate violence. The DFEH carries out this mission through public education and enforcement of the Ralph Act that protects people from hate violence.

### PUBLIC EDUCATION

Representatives of the Department are available to speak to community organizations and at community events to explain state laws and services available to victims of hate violence.

In the fall of 2001, DFEH collaborated with the Fair Employment and Housing Commission and several Northern and Southern California bar associations to train attorneys to aid victims of hate violence. Community-based organizations, religious groups, housing providers, and others who refer or assist hate violence victims attended training on the rights and remedies available under California and federal statutes.



*DFEH Director Dennis Hayashi addresses reporters at a Los Angeles press conference. He is joined by Roland Coleman, Jr., president of the Los Angeles County Bar Association, and Salam Al-Marayati of the Muslim Public Affairs Council. (Courtesy of KCBS TV)*

The Department distributes brochures that are written in several languages to help people understand their right to be free from hate violence and know what they can do if they are victimized. Informational materials, developed in collaboration with the State Victim Compensation and Government Claims Board (VCGCB), are available in English, Arabic, Bengali, Farsi, Gujarati, Hindi, Punjabi, Sinhalese, and Urdu.

For more information on public education and outreach, or to order publications, please contact DFEH at **(800)884-1684**, **(800)700-2320(TTY)**, or visit the Department's website at: **[www.dfeh.ca.gov](http://www.dfeh.ca.gov)**.

## ENFORCEMENT

The DFEH enforces the Ralph Civil Rights Act which prohibits other forms of violence. The law offers victims protection against anyone who threatens, attempts, or actually assaults them or damages their property, whether or not a crime has been committed, because of their:

- Race or color
- Ancestry or national origin
- Disability
- Sexual orientation
- Position in a labor dispute
- Religion
- Age
- Gender
- Political affiliation

Victims of hate violence filing complaints with DFEH may be eligible to have a restraining order served on those who committed the acts. The order is issued by a judge and served on those who committed the hate violence by a police officer. Restraining orders usually restrict the movement and actions of the individuals complained about so that they will not be in a position to threaten or harass the victims again. Anyone who violates a restraining order is committing a crime and may be arrested.

The Department can seek an order requiring those who committed the hate violence to compensate the victims up to \$150,000 for:

- emotional distress,
- property damages,
- lost wages, and
- medical expenses.

DFEH may also seek an administrative fine of up to \$25,000 against those who commit hate violence and require them to pay the costs of attorneys who represent the victim.

**RALPH ACT COMPLAINT FILINGS**



## HOW TO FILE A COMPLAINT WITH DFEH

If you or someone you know wishes to file a complaint with DFEH, please call the toll-free number at **(800) 884-1684, (800)700-2320(TTY)**. **The complaint must be filed within one year from the date the victim of the act or threat of violence becomes aware of the perpetrator(s) identity, but in no case more than three years from the date of harm.** An attorney is not required and there is no fee for the Department's services. You may also learn more about DFEH and the complaint-filing process by visiting the Department's website at: [www.dfeh.ca.gov](http://www.dfeh.ca.gov)

### WHAT HAPPENS WHEN I CALL DFEH?

1. When you contact the Department, you will be asked some questions to determine how we can best assist you:
2. If you are currently experiencing a threat of violence, you will be asked to call 9-1-1 immediately to notify local law enforcement.
3. If you are not in immediate danger, our representative will conduct a brief telephone interview. He or she will ask for a contact name, address, and telephone number(s) in addition to information about the alleged act(s) of hate violence, such as the date it occurred, description of what happened, who committed the act (if known), and why you believe it is a hate crime.
4. If you speak a language other than English, an interpreter is available to help you. You will be put on hold briefly while we connect the interpreter to the conversation.
5. If you report that you were the victim of violence or a threat of violence against you or your property, you will be scheduled for an appointment in the nearest district office. We will attempt to set the appointment for the following day or the first day it is convenient for you to come to the office. If you will need an interpreter, a consultant will contact you with the appointment time as soon as we determine when an interpreter will be available to assist during the appointment. If you are uncomfortable or afraid to visit a DFEH District Office, but would like to file a complaint, please let our representative know so that we may make appropriate arrangements.

DFEH District Offices are located in Bakersfield, Fresno, Oakland, Sacramento, San Francisco, San Jose, Los Angeles, San Bernardino, San Diego, Santa Ana and Ventura.

6. Potential victims will be referred to the State's Victims' Compensation Program at 1-800-777-9229; TTY 1-800-735-2929. This program can assist crime victims with immediate needs you or your family may have, such as relocation, counseling, home security modifications, etc.
7. You may also be provided contact information for the police and/or district attorney offices in your county. If you are uncomfortable contacting the local district attorney or law enforcement, we can assist you by identifying a victim's liaison in the local police and/or district attorney's office to help report the incident. We will also follow up with local authorities to obtain any additional information that may become available related to your complaint.

Assistance can be provided by a District Attorney, a city attorney, or by the California Attorney General. Any of these officials can file a lawsuit or ask a court for a restraining order.



### **Suggestions for Victims and Witnesses**

#### **Things to do**

1. Look for witnesses.
2. Keep the area where the incident occurred as it is.
3. Try to record as much as you can recall about what happened.

### **Suggestions for Victim Assistance Providers**

#### **Some issues to address**

1. Find out whether the victim has physical injuries that need immediate attention.
2. Attempt to ensure law enforcement is notified.
3. Solicit information that has a bearing on law enforcement jurisdiction.
4. Determine who the perpetrator is.
5. Assess the needs of the victim.
6. Draft an assistance plan.

### **Victim Resources**

# VICTIM ASSISTANCE

## SUGGESTIONS FOR VICTIMS AND WITNESSES

**P**reservation and protection of life is the first consideration whenever there is hate violence. Medical attention should be sought if there are serious injuries. If the incident is still in progress and violence is occurring, or you fear the incident may escalate into violence, you should try to get to a safe place and call the police. There is likely to be a faster response from emergency services when 9-1-1 is dialed from a non-cellular phone because the call will be answered locally, but a cellular phone can be used if it is more convenient.

If the police are not at the scene and you are safe, there are three things you should do:

### 1. LOOK FOR WITNESSES

Look around for anyone that might have seen or heard what happened. Often people observe what is going on from a distance, perhaps from across a street or through a window. Approach anyone you think might have witnessed the event and ask for their names and contact information.

### 2. KEEP THE AREA WHERE THE INCIDENT OCCURRED AS IT IS

Try to keep things where they are at the location of the incident until the police arrive. If possible, take pictures of the scene where the incident occurred before anyone disturbs the area. Even though an incident includes hateful writing or other things that you want to remove, it is important to leave everything as is until the police have had a chance to gather evidence or take pictures.



### 3. TRY TO RECORD AS MUCH AS YOU CAN RECALL ABOUT WHAT HAPPENED

Even if the incident only involved property damage and you were not at the scene, you should record anything that might help identify the time when it happened and any suspicions you have of who did it and why. For example, if you left the house and found it vandalized while you were away, write down when you left and when you returned, and when anyone else might have noticed the damage. Anything that might help indicate the time when it happened should be recorded. If you think you know who might be responsible for the act, write that down as well as why you suspect the person.

If you witnessed the incident, record everything that you can recall. Sometimes it is helpful to imagine you are seeing the incident happen again. Begin by describing the area just before the incident, including the time of day, whether it was well lit or dark, where everything was situated and what everyone was doing. Write down what each person said and did as the incident occurred. If you don't know the individuals by name, describe each person as best you can, including hair color, height, age, clothing and anything else that might be used to identify them.

## SUGGESTIONS FOR VICTIM ASSISTANCE PROVIDERS

A number of studies have found that victims of hate violence suffer greater trauma than victims of comparable crimes and incidents because it is who they are, **their identity**, that is being attacked **and they are not victims** of a random act of violence. It is important for people attempting to help victims of hate crimes and incidents to try and identify the emotional and physical needs of the victim and family. Timing may play a role in offering help to a victim. Often victims will be confused and somewhat disoriented immediately following an incident. Their first concern may be to make sure the danger has passed and to get some time alone to begin to deal with what happened.

Every victim is different, but there are some issues that should be addressed before others:

### 1. FIND OUT WHETHER THE VICTIM HAS PHYSICAL INJURIES THAT NEED IMMEDIATE ATTENTION

Transportation may have to be found to get the victim to a medical facility so that injuries do not become life threatening. If there is time, victims should be asked for names and contact information of people they want notified about the incident.



### 2. ATTEMPT TO ENSURE LAW ENFORCEMENT IS NOTIFIED

Not all victims of hate crimes trust law enforcement. When hate crime victims contact non-law enforcement agencies before the police to report incidents, it may be a sign that they have misgivings about calling the police. This is often the case when victims are undocumented immigrants or are gay, lesbian, bisexual, or transgender and want to conceal their identity. Unless victims are in immediate danger, their request is usually honored—but they are still encouraged to report the incident. If victims do not want to report incidents to the police because they are afraid of retaliation, arrangements may be attempted to facilitate sensitive police contacts to help them feel safer. If victims do not want to report the incident to the police because they fear the police themselves, organizations that have contacts with hate crime police liaisons may help reassure the victim that they will be safe and treated with respect.

### 3. SOLICIT INFORMATION THAT HAS A BEARING ON LAW ENFORCEMENT JURISDICTION

Where an incident occurs also has relevance to which agency may become involved in investigating a hate crime. It is important for victim service providers to get all the information pertaining to the circumstances of the incident and where it occurred to help law enforcement agencies decide whether the state or federal government has jurisdiction or whether they share jurisdiction.

### 4. DETERMINE WHO THE PERPETRATOR IS

Most hate violence incidents are acts of vandalism and the people who commit them are not known or apprehended. Victims should be encouraged to report the incidents because they help document the existence of intergroup tensions in the community. It is possible that the people who perpetrated the incidents have done something similar elsewhere and may be identified during an investigation.

There are more resources available for victims when the perpetrator is known or becomes known. Frequently victims of hate violence are subjected to repeated harassment because of their identity by a neighbor or acquaintance. It is important to ask victims questions that will elicit information about the possibility of identifying the perpetrator. If the perpetrator is known it may be possible to get an order that will stop the harassment, even if it is not a hate crime. A number of legal actions can be taken by the DFEH, private attorneys, and other legal entities such as the city attorney, district attorney, or the California Attorney General when the perpetrator is known.

Even when victims do not want to pursue legal action they may opt to participate in a victim-offender reconciliation program if it is offered in their community.

## **5. ASSESS THE NEEDS OF THE VICTIM**

A number of organizations have report forms that are designed not only to document the incident but also to identify the needs of the victim so that they can be addressed.

### ***Typical questions include:***

*Were you or others injured?*

*Does anyone need medical attention?*

*Has law enforcement been notified?*

*If the incident occurred on a campus, did the campus authorities take a report?*

*Have any other agencies taken a report of the incident?*

*Can you describe what happened?*

*Is there evidence of the incident or property damage? If so, have you taken steps to protect the area and preserve evidence?*

*Do you know the perpetrator or have some idea who it might be?*

*Are you concerned for your safety or for the safety of anyone else as a result of the incident?*

*Do you or any of the other victims want counseling?*

*Have you suffered a material or financial loss as a result of the incident?*

*Do you need legal assistance?*

## **6. DRAFT AN ASSISTANCE PLAN**

A victim assistance plan outlines steps that can be taken to help a victim get appropriate help. Individual needs may vary widely and a program may need to be customized to meet the needs of the particular victim. Some resources may have eligibility requirements and others may only be relevant for people who speak a specific language or who have a specific identity. Others may only serve a limited geographic area. The challenge for a victim provider is to link the victim with those resources that are accessible and appropriate. Many victim service providers, particularly in areas with limited resources, find that they have to be innovative and make do with resources that are not specifically designated to meet the needs of hate violence victims.



## VICTIM RESOURCES

When police are notified, a hate crime victim may be eligible for financial help from the State Victim Compensation Program. Funds from the Program may help the victim recover costs for medical care, counseling, stolen or damaged property, and other needs that arose from the hate crime.

Whether or not a crime occurred, the DFEH will investigate the incident if the Ralph Act has been violated and the perpetrator is known or may become known.

Victims and their families often want information about hate violence, counseling, protection, and legal assistance. Some communities have hate violence prevention and response networks that link all the services so one call is all that has to be made. Networks and individual resources are listed under Section Six of this guide. Use the list to get the needed assistance.

In many cases victims do not want or need anything for themselves, but they want people to know about the hate violence incident so that action is taken to prevent it from recurring. Reports can be made to police, human relations commissions or other community organizations that will document the incident. Documentation may help police and community organizations determine if the incident is part of a larger pattern occurring in the area, whether it is indicative of intergroup tensions, and whether law enforcement and other agencies are responding appropriately.

See Section Six for a full listing of victim assistance providers.





### **Why Hate Violence Occurs**

1. Scapegoating
2. Low self-esteem
3. Competition for Scarce Resources
4. Conflicted Identify
5. Belief System
6. Thrill Seeking

### **Suggested Prevention Strategies**

1. Help people get to know people of other identifies.
2. Create a community climate that is intolerant of hate violence.
3. Community, school and law enforcement activities can be more directly aimed at preventing hate violence.

# PREVENTING HATE VIOLENCE

## WHY HATE VIOLENCE OCCURS

**B**efore a community can organize to prevent hate violence, it must analyze why it occurs. Researchers have found a number of explanations for hate violence; most fall into one of the following categories:

### 1. SCAPEGOATING

Often people who commit hate crimes suffered emotional distress because of their family or personal relationships, jobs, or other personal problems and feel the need to blame someone else for what has happened to them. They often target people who have a racial, ethnic, religious, gender or identity other than their own.

### 2. LOW SELF-ESTEEM

Some people think so poorly of themselves that they are ready to attack people they perceive as being worse off to prove they are better. These individuals may attack people they think are immigrants or refugees, members of another religion or ethnic group, gays and lesbians, etc., because they believe it demonstrates their superiority over another group of people. Political speeches, sermons, and other pronouncements that cast scorn on a specific group of people because of their identity may encourage some people with low self-esteem to harass or commit violence against the people who have been scorned.

### 3. COMPETITION FOR SCARCE RESOURCES

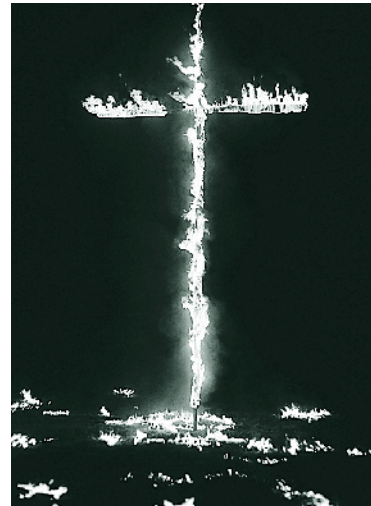
Relatively rapid change in the racial or ethnic makeup of the population in a community is often accompanied by an increase in the number of reported hate crimes. Researchers have found intergroup tensions increase when public agencies and businesses are perceived to be favoring people who have a particular racial, ethnic or religious identity and the perceptions of bias are more likely to occur when the demographic makeup of the population is shifting. Intergroup tensions may be fueled by language differences that make communication more difficult.

### 4. CONFLICTED IDENTITY

Researchers have found that some people perpetrate hate violence as a way to try to deny their own identity. Psychologists have found that some men who worry they may be gay have attacked people they perceive to be gay or lesbian. There are also people who do not identify as being white who have joined groups that promote white supremacy.

## 5. BELIEF SYSTEM

Some people have religious or other strongly held beliefs that a particular group of people are evil and deserve to be attacked. Some of these beliefs may relate to their membership in a hate group, but the beliefs may also stem from their adherence to particular religious teachings.



## 6. THRILL SEEKING

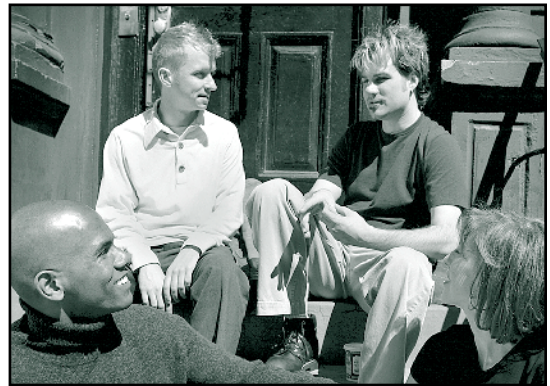
There is another group of people who participate in hate violence because they are going along with their friends, but harbor no particular ill-will towards people who share the identity of their victims. Scholars have labeled them as “thrill seekers.”

### SUGGESTED PREVENTION STRATEGIES

#### 1. HELP PEOPLE GET TO KNOW PEOPLE OF OTHER IDENTITIES.

This can be done in a number of different settings in a number of different ways:

- Multi-cultural fairs, picnics, potlucks and other events provide opportunities for people with different identities to plan, organize, and celebrate together
- School and community recreational activities, youth programs, senior programs, and other events can be monitored, and strategies employed, to ensure participants are representative of people in the community who have different identities
- Community and campus dialogs can be organized with the objective of ensuring people with different identities get to know and respect one another



#### 2. CREATE A COMMUNITY CLIMATE THAT IS INTOLERANT OF HATE VIOLENCE.

A number of research studies indicate that when people of different identities share common interests and learn to respect one another, it is unlikely that they will be involved in perpetrating hate violence. There are countless community, school, and job activities and functions in every community that provide opportunities for facilitating interaction among people of different identities. A conscientious effort to ensure the participation of people with diverse identities as equal partners in all facets of community life is part of a basic hate violence prevention strategy.

### 3. COMMUNITY, SCHOOL AND LAW ENFORCEMENT ACTIVITIES CAN BE MORE DIRECTLY AIMED AT PREVENTING HATE VIOLENCE:

- Community

An important community strategy to prevent hate violence is to get the message out that it will not be tolerated and the whole community will come forward to prevent and respond to it. Some communities have declared themselves “hate-free zones” or “hate-free cities” to convey the message. See Section 4 for specific information about community strategies.

- Schools

- a. A climate can be created in schools that will convey the message that hate violence is not acceptable. Safe School Plans (Education Code section 35294) can create supportive environments through the development of human relation skills, multicultural learning, and responsible procedures. School districts should support each school’s effort in developing appropriate safety plans to prevent hate behavior, as well as promote cross-agency training for school and community personnel and law enforcement to learn how to deal with hate-motivated incidents when or if they should occur. The participation of students, staff, parents, and community in school activities designed to demonstrate caring and concern for people of all identities is likely to make anyone attending the school hesitate before engaging in hate activity.



There are a number of resources schools can use to create a climate that will make it less likely hate-motivated violence will occur.

- 1) The United States Department of Education and the Association of State Attorneys General distributed a climate assessment and guide to all public school districts to help them design activities to prevent hate violence.
- 2) School climate assessments that include questions designed to assess how well young people with different identities are getting along with others are incorporated in the *California Healthy Kids Survey* that is administered to students at specified grade levels in school districts that opt to use it. *Safe Schools: A Planning Guide for Action* contains school safety assessment surveys distributed by the California Department of Education. The assessments help schools monitor how well they are doing and include suggestions that can be used to help prevent hate-motivated violence.
- 3) California’s School-Law Enforcement Partnership, consisting of the California Department of Education and the California Department of Justice, sponsors training to help school district administrators and staff learn how to promote school

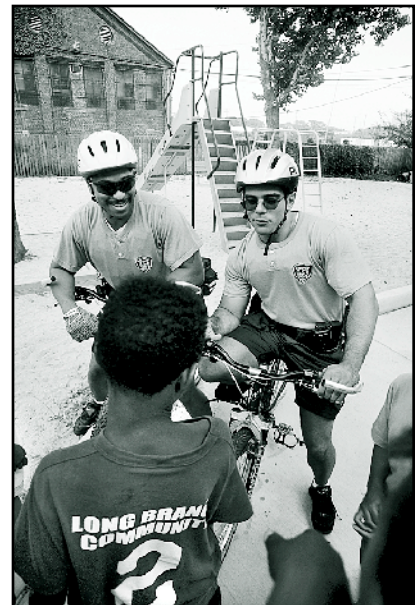


climates that will help prevent hate violence. For more information about this and other training to improve school safety, visit the Safe Schools and Violence Prevention Office website at: [www.cde.ca.gov/spbranch/safety](http://www.cde.ca.gov/spbranch/safety).

- 4) Non-profit organizations offer campus and off-campus training and programs to improve intergroup relations and prevent hate-motivated violence. The range of training and programs is large enough to allow schools to select those that meet their specific needs.
- b. Curriculum frameworks include learning objectives to help young people of different identities learn about one another. Some teachers use cooperative learning instructional techniques that promote students of different identities interacting with one another as they perform classroom activities.
- c. Peer counseling and conflict resolution programs run by students help prevent hate violence through early intervention. Peer counseling and student programs may also help to prevent hate crimes by providing information to students and demonstrating skills for preventing hate violence. A collateral benefit of these programs is that they improve relations among the students who have different identities who are working together in the projects.

- Law Enforcement

- a. Some police departments make a special effort to reach out to people who have different identities in their communities. Meetings about common concerns, such as the need for a place for kids to play, the need to clean up some areas of the neighborhood, the need for changes in traffic flow, etc., provide opportunities for people of different identities to get to know one another, begin working on the same issues, and improve their relationships.
- b. Police in many communities come into contact with youth who are part of informal groups or gangs. These groups are sometimes made up of people of the same race or ethnicity who engage in hate violence. Officers in some departments take the time to work with community organizations to set up sport competitions and events that are designed to help youth with different identities get to know one another and build positive relationships. The time officers spend expanding opportunities for youth to come into contact with people with identities other than their own may play an important role in preventing hate violence.
- c. Often police officers become aware of people in the community who participate in hate violence activities. Officers may seek to prevent hate crimes by letting individuals who seem likely to commit a hate crime know that they are aware of their activities.







**Critical Incident Response Teams (CIRT)**

**Hate Violence Network Interventions**

**Community Hate Violence Prevention  
And Response Models**

1. Urban Model
2. Suburban Model
3. Rural Model

**Suppression**

# COMMUNITY RESPONSE STRATEGIES

## CRITICAL INCIDENT RESPONSE TEAMS (CIRT)

A number of California communities have established CIRTs to respond to serious incidents and crimes. Typically, law enforcement representatives and community members of the CIRT go to the scene, talk with the victims and report back to the team. The CIRT typically develops a response plan for the incident that designates responsibilities to implement it. A CIRT can help dispel rumors by serving as a central contact point for the media and others wanting information on the incident. Some CIRTs include a telephone tree that lets them reach out to faith and community-based organizations throughout the area and bring them together for specific actions.

## HATE VIOLENCE NETWORK INTERVENTIONS

Community networks to prevent and respond to hate violence usually include organizations that represent the spectrum of people in the area. Broad representation is important because it allows the network to gain the perspective of people who may be committing hate violence as well as the perspective of people who are its victims. It also provides the network with the ability to communicate with people of all identities and intervene to reduce tensions among groups prior to, or following, hate violence incidents.



A network brings people together who are sensitive to the concerns of victims, perpetrators, and those who are somewhat remote from them to create a strategy to respond to incidents and determine what should be done to prevent them from recurring. For example, a community organization serving a constituency with a particular identity may relate that a number of incidents of hate violence have been occurring between their members and people who have another identity at a local park.

The network may then create an action plan that includes:

- 1) Increased police presence at the park;
- 2) Sending community organizers to the park to determine the source of the tensions and rationale for the attacks;
- 3) Mediating differences between members of the conflicting groups who frequent the park;
- 4) Facilitating dialogs between representatives of both communities; and
- 5) Recruiting people from both communities to participate jointly in recreational activities.

## COMMUNITY HATE VIOLENCE PREVENTION AND RESPONSE MODELS

### URBAN MODEL

Typically, a human relations commission in an urban area will organize a hate crime network comprised of community organizations, representatives of the faith community, law enforcement agencies, school representatives, and other public agencies concerned about preventing and responding to hate violence. The city or county commission provides clerical staff, organizes meetings and events, and usually co-chairs the network along with a representative from a community-based organization or public agency elected by the members of the network. Network staff collaborate with the co-chairs, the public and private organizations, and coordinate the work.

Networks often provide training for law enforcement and schools and develop a uniform set of procedures for reporting hate crimes and incidents.

Network meetings are used to:

- 1) Provide information and training to improve the knowledge and skills of the network participants,
- 2) Share information about hot spots where hate violence is occurring and collaborate to develop response strategies, and
- 3) Provide a forum for people to announce initiatives they are undertaking and seek the cooperation, collaboration and participation of others.

The critical challenge for all networks is to establish an effective process for getting reports of hate violence. Most networks take reports of hate violence incidents and develop procedures for getting summaries of hate-motivated incidents reported to schools and hate crimes reported to law enforcement. They also train community and faith-based organizations on how to take reports and submit copies to the network. Organizations that have constituencies who may be reluctant to report incidents of hate violence, such as gays and lesbians, non-English speakers, and undocumented immigrants are often given special encouragement to conduct outreach.

Network staff are assigned to organize and analyze the reports. The analyses help determine what areas in the city or county are suffering from intergroup tensions and whether there is a pattern of violence between people of particular identities. The information helps the network build strategies to prevent further hate violence. City or county human relations commissions may distribute their analyses to other public agencies to assist them in making decisions regarding programs and activities affecting particular areas or populations.

Some urban areas in California are so large that communities suffering an outbreak of hate violence find it necessary to create networks to specifically serve their area. The community network remains within the larger network and designs and implements strategies for its own community. The local networks have the advantage of covering a relatively small area while having access to a wide range of information and resources that can be shaped to meet their specific needs.

## SUBURBAN MODEL

A number of suburban areas in California have developed hate violence prevention and response networks in response to incidents that brought unwelcome attention to their area. In other communities, human relation commissions spurred the development of a network, or leaders in the community decided to take on the responsibility.

Although suburban networks often do not have staff and access to resources available to those operating in the large metropolitan areas, they can be quite effective. Many have a staff person assigned to coordinate the network on a full or part-time basis. The staff may or may not be employed by a human relations commission. Networks generally include representatives from community and faith organizations, law enforcement and schools. Meetings are usually smaller than those in metropolitan areas and there is more time available for members to explore opportunities to develop specific programs and activities.

The smaller area covered by the suburban networks allows them to sponsor and conduct community-wide events designed to help people of different identities work more closely together. Suburban networks may host potlucks, Martin Luther King Jr. day celebrations, and other activities that may help prevent or reduce intergroup tensions.

The number of hate violence incidents occurring in a suburban area does not usually require a sophisticated analysis to enable network members to interpret the meaning of the data. However, it is still important to ensure hate violence is reported. Procedures for getting summaries of reports of hate crimes from law enforcement and summaries of hate-motivated violence from schools are usually included in suburban networks. Some of the networks either train community and faith-based organizations to take hate violence reports or arrange for someone else to provide the training.

Suburban networks may work with local schools and the police department to establish a Critical Incident Response Team (CIRT) to respond to hate crimes and incidents. When a serious hate crime or incident takes place, or when something that might create inter-group tensions such as an act of terrorism takes place elsewhere, the CIRT meets to determine what they need to do to ease tensions and maintain harmony in the community.

## RURAL MODEL

Fewer rural areas in California have organized networks to address hate violence than either metropolitan or suburban areas because there is less likely to be an established organization to take on the task of addressing intergroup tensions or conflict. The networks that do exist in rural areas in California often have representatives from a local human relations commission, or influential educational or other public institutions located nearby.

Typically, a rural network has no full-time staff and its mainstay is a committed core of volunteers drawn from the faith community, a local college or university, and community and human service agencies. Law enforcement and the schools often assign staff to serve as liaison to the network.

Members generally meet at a regular time to plan activities to prevent hate violence and get summaries of hate crime and hate-motivated violence reports from the police and school

representatives. Some of the networks plan community forums on hate violence to provide opportunities for residents to make the network aware of specific problems that need addressing.

Some of the rural networks are organized on a county basis and seek to get someone from each school district and law enforcement agency appointed as a liaison to the network and provide the network with summaries of reported incidents. The United States Department of Justice Community Relations Service often assists networks in rural areas establish memorandums of understanding between school districts and law enforcement agencies to facilitate the flow of information about hate violence incidents.

See Section Five for more information on organizing networks.

## SUPPRESSION

The most common response to hate crimes by victims and people in the community who want to feel secure is to pressure the police to arrest those who commit them. The suppression strategy is most successful when those committing the hate crimes are actually arrested, when they are removed from the community for a very long period of time, and when they are not part of a larger group that remains in the community. The arrest of people who commit hate crimes is an important tool and should not be overlooked; however, there are many instances when it is only a partial answer to preventing their recurrence.

Hate crimes often reflect tensions among people of different identities in the community. When members of a community support and sympathize with those who commit hate crimes, making an arrest without addressing the causes of the tension will not have much impact on preventing additional hate crimes. In some cases, those who identify with the victims of the attack may get a sense the community is on their side after an arrest and feel justified in taking revenge against those who share the identity of the attacker. Police should be urged to arrest perpetrators of hate crimes, but communities that work together to develop effective strategies for easing tensions and preventing the recurrence of hate violence are likely to have better results.



## **Incident-Specific Organizing**

### **Organizing A Hate Violence Prevention and Response Network**

1. Selecting An Organizational Structure
2. Introducing the Network Concept  
to the Community
  - Arranging For Speakers
  - Publicity
  - Logistics
  - A Model For Conducting A Forum
3. Structuring the Network
  - Structure
  - Hate Violence Reporting
  - Functions

## **Conclusion**

# COMMUNITY ORGANIZING METHODOLOGIES

## INCIDENT-SPECIFIC ORGANIZING

**F**requently, when hate violence occurs in a community, people want to do something to respond or prevent its recurrence. Community meetings are often organized and publicized by a public agency or community-based organization to discuss the incident and decide what to do. The organization calling the meeting usually notifies appropriate community agencies, religious organizations, and youth groups and schools. Meetings generally include representatives of agencies that responded to the incident so that they can provide more information. Victims have sometimes wanted to appear to tell their story, but it is not uncommon for them to shun publicity.

### **A number of actions have been taken by communities in response to hate violence:**

- 1) One city persuaded the local newspaper to publish the Hebrew symbol for peace on one page of the newspaper so that readers could cut it out and put it in their windows to demonstrate their support after hate crimes were committed at a synagogue;
- 2) A community-based organization worked with a labor union to organize teams of volunteers to sit outside the homes of victims of hate crimes or incidents and report anything suspicious;
- 3) A human relations commission volunteered to escort family members of a hate crime victim to school and work;
- 4) Community-based organizations created hotlines to take reports of hate incidents and hate crimes from their constituents;
- 5) Associations of lawyers agreed to provide legal assistance to victims of hate crimes; and
- 6) Mental health associations agreed to provide counseling to victims of hate crimes or incidents.

## ORGANIZING A HATE VIOLENCE PREVENTION AND RESPONSE NETWORK

**T**he California Attorney General's Civil Rights Commission on Hate Crimes found that communities with hate violence prevention and response networks are significantly more effective in responding to hate crimes. There are over a dozen hate violence prevention and response networks in California. Many of the networks went through three phases in the organizing process:

1. Selecting an Organizational Structure
2. Introducing the Network Concept to the Community
3. Structuring the Network



## I. SELECTING AN ORGANIZATIONAL STRUCTURE

Networks are usually staffed by an organization that works to ensure all segments of the community are working to reduce hate violence. Where strong human relations and human rights commissions exist with the necessary staffing, they are often the first option for coordinating networks, but there are several other models operating in California.

### **Typical Network Models:**

*A human relations commission established and supports a community-based organization that serves as the coordinating agency for a network to prevent and respond to hate violence;*

*Community organizations in one county collaborated to create a new organization and their representatives serve on its board of directors;*

*A suburban city staffs a network established by a community-based volunteer organization;*

*A network that spans two counties is staffed by the director of a city human relations commission; and*

*A network is staffed by a nonprofit organization but cites the network as a partnership between the local human relations commission and the organization.*

Efforts by volunteers to establish a network without a coordinating organization are generally more common in rural areas. It is difficult work. Several efforts to create networks spawned by hate violence have not succeeded because of the lack of organizations with the resources or commitment to assume responsibility for maintaining them.

Funding is often critical to the formation of a network. A few networks have been able to raise enough money from philanthropic foundations and donations to support their work but most rely on public agency support.

## 2. INTRODUCING THE NETWORK CONCEPT TO THE COMMUNITY

A number of communities held forums on hate violence to announce plans to organize a network to prevent and respond to hate violence.

### **Arranging for Speakers**

- Victims of hate violence

Forum organizers frequently seek to identify victims of hate violence to speak at the event. Descriptions of hate violence related by victims at forums usually build support for a network and aid in recruiting volunteers. Forum organizers generally meet with police, school staff, leaders of community organizations and religious institutions and ask them to identify victims who may be willing to relate their stories. Victims may come forward through meetings with schools,

community gay and lesbian organizations, support groups, and organizations serving constituents with a different racial, ethnic, or religious identity than the predominant population group in the area. Victims may also be located through news accounts of incidents. Forum organizers are generally very careful to get victims to consider the consequences of telling their story before scheduling them to speak. They usually ask victims and their families to consider any risks to their safety, the safety of their families, and the consequences of letting people know about what happened to them before making a decision to tell their story in public. Youth, in particular, are encouraged to discuss the consequences of going public with their family before making a decision.

- Experts

Another approach that has been used in lieu of having victims testify has been to arrange for well-known experts on hate violence or celebrities to make presentations and encourage questions that are likely to elicit information on hate violence incidents. Well-known speakers often succeed in drawing a large crowd to an organizing meeting.

- State and federal agencies

Agency representatives from organizations that work on hate violence issues are usually invited to participate in the forum. Their presence demonstrates state and federal support for the creation of a network and their presence at the meeting also helps to ensure local elected and police and school officials participate.

**State Agencies** that generally send representatives to forums include:

- California Department of Fair Employment and Housing
- California Fair Employment and Housing Commission
- California Attorney General’s Office
- California Victims Compensation and Government Claims Board

**Federal agencies** that send representatives to forums include:

- United States Attorney
- United States Justice Department Community Relations Service
- United States Department of Education Office for Civil Rights

Contact information for the agencies can be found in Section Six.

## Publicity

Newspapers and radio and television stations serving the area are usually willing to announce the meetings. Organizers of the events may arrange for the media to interview an expert, public official, or a victim of a hate crime in order to publicize the event.

Schools, colleges, community-based organizations and religious institutions may be willing to distribute flyers and posters announcing the meeting. Meeting announcements generally include information on the availability of interpreters for people who do not speak English and for those who are hearing impaired. Efforts are usually made to print flyers and posters in every language commonly used in the community. Posters are sometimes distributed to businesses, college campuses and organizations in areas where there are high concentrations of people. A contact number is usually provided on flyers or posters so that the readers have someone to call for more information.

## **Logistics**

Organizers generally choose a site for the meeting that can be used by people with disabilities and is convenient for people to reach.

A date and place for the second meeting to organize the network is usually announced at the first meeting. Local police and school officials, as well as community-based organizations, are asked to commit to participating in the follow-up meeting so that their willingness to become part of the effort can be announced.

Agendas usually include a limited time for people from the participating agencies to be introduced and to describe what their agency is doing. Unless they are being highlighted, agency representatives will not usually require more than a few minutes to state their message. Organizers decide how much time will be devoted to hearing from experts on hate violence and how much from victims.

## **A Model for Conducting a Forum**

One meeting agenda and setup that worked well in Santa Barbara, Santa Cruz, San Francisco, San Joaquin and Mendocino counties resembled a public hearing. Representatives of the sponsoring organization opened the meeting and a facilitator was introduced to conduct the meeting. Public agency representatives were seated across the stage or across the front of the meeting area facing the audience. Each representative was introduced and spoke about the work they do that relates to hate violence. The local school superintendent, police chief and sheriff were usually represented.

The facilitator introduced victims and witnesses who wanted to relate a hate crime or incident. They usually sat at a table arranged at the side of the meeting area so that they could face the panel of agency representatives and be seen by the audience at the same time. Once each person told their story an opportunity was given for agency representatives to ask questions or respond. The facilitator kept the meeting focused on establishing a base from which to form a network.

A sign-up sheet for volunteers was circulated during the meeting to recruit participants for developing a network. The plan for creating a network was generally introduced following the testimony of the witnesses and everyone was invited to the next meeting. People who expressed interest were asked to participate in the second meeting and invite others to attend.

## **3. STRUCTURING THE NETWORK**

The second meeting usually serves as the first of several called specifically to build a network.

### **Structure**

There are three components found in most hate violence prevention and response networks:

1. Community
2. Schools
3. Law enforcement

Networks have also established specific components to address issues such as youth and/or youth gangs, the media, immigrants, a CIRT, and other issues of particular concern.

A committee is usually organized for each network component and a chair is chosen to facilitate its meetings and to ensure members of the committee carry out their work assignments.

### **Hate violence reporting**

Key to the work of most networks is effectively identifying hate violence incidents occurring in the area. Every component of the network usually has the identification and reporting of hate violence incidents to the network as one of its objectives. Law enforcement and school components usually include training for those who are likely to respond and a procedure for reporting hate violence to the network. The community component usually includes training community agencies, religious institutions, and other appropriate organizations how to take reports of hate violence incidents.

### **Functions**

A coordinating committee may be established to review the hate violence incidents reported to the network. Its task is to identify issues that need attention and to design and implement an appropriate response strategy.

#### **Some examples of the types of activities networks have undertaken include:**

Meeting with organizations serving a constituency that rarely reports incidents of hate violence to determine what could be done to improve reporting;

Meeting with representatives of groups that serve a constituency that has been found to be involved in perpetrating a disproportionate number of hate violence incidents to determine the causes and design a strategy to prevent further incidents; and

Meeting with housing organizations, the housing authority, and legal advocates to develop a strategy to ease intergroup tensions and reduce hate violence occurring in public housing developments.

Once a network is established, the coordinating agency usually provides staff with an address and a phone so that people can contact the network and correspond with it. An e-mail address and website makes it easier to contact the network. Staff ensures that members of the network have a place to meet and get notes from meetings to share with the remaining members of the network. The coordinator is generally aware of the objectives for each component and the person responsible for coordinating steps to achieve them.

## CONCLUSION

In summary, this guide has been developed to accomplish these important objectives:

- To familiarize you with the Department's role in enforcing California laws that prohibit hate violence and hate crimes
- To inform victims of their rights and remedies available under California hate violence laws
- To provide information that will enable human relations commissions, advocacy groups, and community-based organizations to assist victims of hate violence
- To offer suggestions on how communities, schools, and law enforcement can work together to develop effective response and prevention strategies.

The remaining sections of the guide contain lists of organizations that provide victims' services and resources for addressing hate violence and a summary of state, federal, and case law related to hate violence.

As the Department responsible for enforcing California's civil rights laws, DFEH is committed to making its resources available to both victims of hate violence and those who assist victims. Although no one idea or solution may meet the needs of all communities, sharing information and resources among organizations will greatly enhance the opportunity to achieve a hate-free environment.



**California State Government Offices**

**Local Government and  
Community-Based Organizations**

**United States Government Offices**

## CALIFORNIA STATE GOVERNMENT OFFICES

### DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING OFFICES THROUGHOUT CALIFORNIA

Toll-free: 1-800-884-1684

Post-September 11 Hotline: 1-866-460-HELP (1-866-460-4357)

Website: [www.dfeh.ca.gov](http://www.dfeh.ca.gov)

*Services Provided: Investigations of Ralph Act violations; restraining orders to prevent the recurrence of hate violence; seek the levying of fines and orders for the perpetrator to pay compensatory damages to hate violence victims.*

### DEPARTMENT OF JUSTICE, OFFICE OF THE ATTORNEY GENERAL

Department of Justice

Public Inquiry Unit

P.O. Box 944255

Sacramento, CA 94244-2556

Tel: (916) 322-3360 (within California) Fax: (800) 952-5225

Email: [piu@doj.ca.gov](mailto:piu@doj.ca.gov) Website: [www.ag.ca.gov](http://www.ag.ca.gov)

*Services provided: Technical assistance to law enforcement investigating and prosecuting hate crimes, restraining orders for hate crimes when violator is known.*

### DEPARTMENT OF EDUCATION – SAFE AND HEALTHY KIDS PROGRAM OFFICE

1430 “N” Street, 6<sup>th</sup> Floor

Sacramento, CA 95814

Tel: (916) 319-0920 Fax: (916) 319-0218

Website: [www.cdc.ca.gov](http://www.cdc.ca.gov)

*Services Provided: Training for comprehensive safe school planning and crisis response, training for classroom management, training for hate-motivated behavior and bullying.*

Funding:

School Safety Block Grant

Safe School Implementation Grant

School/Community Policy Grant

Gang Risk Intervention Grant

### FAIR EMPLOYMENT AND HOUSING COMMISSION

455 Golden Gate Avenue, Suite 14500

San Francisco, CA 94102-3660

Tel: (415) 557-2325 Fax: (415) 557-0855

*Services Provided: Training for the prosecution of hate crimes, training for the civil litigation of hate incidents.*

### CALIFORNIA VICTIMS COMPENSATION AND GOVERNMENT CLAIMS BOARD

P. O. Box 3036

Sacramento, CA 95812-3036

Toll-free: 1-800-777-9229 TTY: 1-800-735-2929

Website: [www.boc.ca.gov](http://www.boc.ca.gov)

*Services Provided: Compensation for victims of hate crimes if crimes are reported to law enforcement.*



## LOCAL GOVERNMENT AND COMMUNITY-BASED ORGANIZATIONS

### ALAMEDANS TOGETHER AGAINST HATE

Area Served: City of Alameda

Constituency: All

Kathy Quick  
950 W. Mall Square, Room 215  
Alameda, CA 94501  
Tel: (510) 749-5820 Fax: (510) 749-5808  
Email: [kquick@ci.alameda.ca.us](mailto:kquick@ci.alameda.ca.us)

*Services Provided: Critical Incident Response Team (CIRT), police and school liaison.*

### AMERICAN-ARAB ANTI-DISCRIMINATION COMMITTEE

Area Served: Nationwide

Constituency: All

Carol Khawolly, Legal Department  
4201 Connecticut Avenue NW, Suite 300  
Washington, DC 20008  
Tel: (202) 244-2990 Fax: (202) 244-3196  
Website: [www.adc.org](http://www.adc.org)

*Services Provided: Legal assistance and referral, information, lobbying, hate crime publications, monitors discrimination, grass roots organizing.*

### AMERICAN FRIENDS SERVICE COMMITTEE, BORDER VIOLENCE PROJECT

Area Served: San Diego/Mexico Border Region

Constituency: Immigrants

Leticia Jimenez  
1446 Front Street, Suite 304  
San Diego, CA 92101  
Tel: (619) 233-4114 Fax: (619) 233-6247  
Website: [www.afsc.org](http://www.afsc.org)

*Services Provided: Victim counseling, victim advocacy.*

### AMERICAN JEWISH COMMITTEE INSTITUTE OF HUMAN RELATIONS

Area Served: Nationwide

Constituency: All

222 Martin Street, Suite 150  
Irvine, CA 92612  
Tel: (949) 660-8525 Fax: (949) 660-0570  
Website: [www.ajc.org](http://www.ajc.org)  
  
9911 W. Pico Boulevard  
Los Angeles, CA 90035  
Tel: (310) 282-8080 Fax: (310) 282-8668  
Website: [www.ajc.org](http://www.ajc.org)

## LOCAL GOVERNMENT AND COMMUNITY-BASED ORGANIZATIONS, (Continued)

### AMERICAN JEWISH COMMITTEE INSTITUTE OF HUMAN RELATIONS, (CONT.)

Samuel Soklove  
5095 Murphy Canyon Road, Suite 360  
San Diego, CA 92123  
Tel: (858) 278-5943 Fax: (858) 278-5994  
  
Jeff Sinensky, Legal Director  
165 East 56<sup>th</sup> Street  
New York, NY 10022-2746  
Tel: (212) 751-4000 Fax: (212) 751-4019  
Website: [www.ajc.org](http://www.ajc.org)

### ANTI-DEFAMATION LEAGUE

Area Served: Nationwide

Constituency: All with additional services for Jewish community

San Diego/Imperial County: Tel: (619) 293-3770 Fax: (619) 293-7010  
Los Angeles: Tel: (310) 446-2000 Fax: (310) 470-8712  
San Francisco: Tel: (415) 981-3500 Fax: (415) 981-8933  
Website: [www.adl.org](http://www.adl.org)

*Services Provided: Counseling for victims of anti-Semitic violence, referrals to law enforcement trained in hate crimes, training for law enforcement, training on maintaining security in religious institutions, World of Difference School anti-bias curriculum and training, collects data on anti-Semitic violence and training on schools hate crime reporting requirements.*

### ASIAN AMERICAN LEGAL DEFENSE AND EDUCATION FUND

Area Served: Nationwide

Constituency: Asian Community

99 Hudson Street 12<sup>th</sup> Floor  
New York, NY 10013  
Tel: (212) 966-5932 Fax: (212) 964-4303

*Services Provided: Legal advocacy for victims of anti-Asian violence, also collects data on anti-Asian violence.*

### ASIAN LAW ALLIANCE

Area Served: Santa Clara County

Constituency: Targeting Asian and Pacific Islander Community

Richard Konda  
184 East Jackson Street  
San Jose, CA 95112  
Tel: (408) 287-9710 Fax: (408) 287-0864  
Website: [www.asianlawalliance-ala-org](http://www.asianlawalliance-ala-org)

*Services Provided: Data collection, legal aid, and bilingual services.*

## LOCAL GOVERNMENT AND COMMUNITY-BASED ORGANIZATIONS, (Continued)

### ASIAN LAW CAUCUS

Area Served: Northern California

Constituency: Asian and Pacific Islander Community

939 Market Street, Suite 201

San Francisco, CA 94103

Tel: (415) 896-1701 Fax: (415) 896-1702

Website: [www.asianlawcaucus.org](http://www.asianlawcaucus.org)

### ASIAN PACIFIC AMERICAN LEGAL CENTER

Area Served: Southern California

Constituency: Asian Pacific Islander Community

1145 Wilshire Boulevard, 2<sup>nd</sup> Floor

Los Angeles, CA 90017

Tel: (213) 977-7500 Fax: (213) 977-7595

Website: [www.apalc.org](http://www.apalc.org)

### BAY AREA HATE CRIME INVESTIGATORS ASSOCIATION

Area Served: Northern and Central California

Constituency: Police and Community Organizations

Captain Reginald Lyles

Novato Police Department

909 Machin Street

Novato, CA

Tel: (415) 897-4361 Fax: (415) 898-5344

Email: [Rlyles@ci.novato.ca.us](mailto:Rlyles@ci.novato.ca.us)

*Services Provided: Technical assistance to law enforcement, networking community organizations with law enforcement.*

### COMMUNITY UNITED AGAINST VIOLENCE

Area Served: San Francisco

Constituency: Gay/Lesbian/Bisexual/Transgender Community

160 14<sup>th</sup> Street

San Francisco, CA 94103

Tel: (415) 777-5500 Fax: (415) 777-5565

Website: [www.cuav.gov](http://www.cuav.gov)

### HUMBOLDT COUNTY HUMAN RIGHTS COMMISSION

535 5<sup>th</sup> Street

Eureka, CA 95501

Tel: (707) 268-2548 No fax #

No email address

## LOCAL GOVERNMENT AND COMMUNITY-BASED ORGANIZATIONS, (Continued)

### INTERGROUP CLEARINGHOUSE

Area Served: San Francisco

Constituency: All

Jill Tregor  
1125-B Quintara Street  
San Francisco, CA 94116  
Tel: (415) 564-9410  
Email: [stophatred@aol.com](mailto:stophatred@aol.com)

### JAPANESE AMERICAN CITIZENS LEAGUE

Area Served: Nationwide

Constituency: All (membership only)

244 S. Pedro Street, Suite 406 (Southern California)  
Los Angeles, CA 90012  
Tel: (213) 626-4471 Fax: (213) 626-4282  
Website: [www.jacl.org](http://www.jacl.org)

1765 Sutter Street (National Headquarters)  
San Francisco, CA 94115  
Tel: (415) 921-5225 Fax: (415) 931-4671  
Website: [www.jacl.org](http://www.jacl.org)

1255 Post Street, Suite 727 (Regional Office)  
San Francisco, CA 94109  
Tel: (415) 345-1075 Fax: (415) 345-1077  
Website: [www.jacl.org](http://www.jacl.org)

*Services Provided: Reports on anti-Asian violence, advice, lobbies on/for legislation, advocacy education, data collection and community organizing.*

### LAMBDA LEGAL DEFENSE AND EDUCATION FUND, INC. — WESTERN REGIONAL OFFICE

Area Served: Western Region of the United States

Stephan Johnson  
6030 Wilshire Boulevard, Suite 200  
Los Angeles, CA 90036-2728  
Tel: (323) 937-2728 Fax: (323) 937-0601  
Website: [www.lambdalegal.org](http://www.lambdalegal.org)

*Service Provided: Legal assistance, outreach and education on civil rights.*

## LOCAL GOVERNMENT AND COMMUNITY-BASED ORGANIZATIONS, *(Continued)*

### LOS ANGELES GAY AND LESBIAN CENTER

Area Served: Los Angeles County and adjacent areas

Constituency: Gay/Lesbian/Bisexual/Transgender Community

1625 N. Schrader Boulevard  
Los Angeles, CA 90028-6213  
Tel: (323) 993-7609 Fax: (323) 308-4420  
Website: [www.laglc.org](http://www.laglc.org)

### LOS ANGELES HUMAN RELATIONS COMMISSION, NETWORK AGAINST CRIME

1184 Hall of Records  
320 West Temple Street  
Los Angeles, CA 90012  
Tel: (213) 974-7601 Fax: (213) 687-4251  
Website: [www.lahumanrelations.org](http://www.lahumanrelations.org)

### MARIN ROUNDTABLE

Area Served: Marin County

Constituency: All

Marlene Schoonover  
Saint Paul Episcopal Church  
1123 Court Street  
San Rafael, CA 94901  
Tel: (415) 457-7326

### MEXICAN AMERICAN LEGAL DEFENSE & EDUCATION FUND (MALDEF)

Area Served: Nationwide

Constituency: All

David Figueroa, Communications Manager  
634 South Spring Street  
Los Angeles, CA 90014  
Tel: (213) 629-2512 Fax: (213) 629-0266  
Website: [www.maldef.org](http://www.maldef.org)

Liz Guillen, Legislative Counsel  
926 "J" Street, Suite 408  
Sacramento, CA 95814  
Tel: (916) 443-7531 Fax: (916) 443-1541  
Website: [www.maldef.org](http://www.maldef.org)

Maria Navarro, Administrative Assistant  
660 Market Street, Suite 206  
San Francisco, CA 94104  
Tel: (415) 248-5803 Fax: (415) 248-5816  
Website: [www.maldef.org](http://www.maldef.org)

## LOCAL GOVERNMENT AND COMMUNITY-BASED ORGANIZATIONS, (Continued)

### **MUSLIM PUBLIC AFFAIRS COUNCIL – LOS ANGELES**

Area Served: Nationwide

Constituency: All ethnicities in the Muslim community

Salam Al-Marayati, Director  
3010 Wilshire Boulevard, Suite 217  
Los Angeles, CA 90010  
Tel: (213) 383-3443 Fax: (213) 383-9674  
Website: [www.mpac.org](http://www.mpac.org)

*Service Provided: Information and resources, fosters relationships between American Muslims and elected representatives, advocacy.*

### **NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE (NAACP) LEGAL DEFENSE & EDUCATIONAL FUND INC.**

Area Served: Nationwide

Constituency: All

Western Regional Office  
1055 Wilshire Boulevard, Suite 1480  
Los Angeles, CA 90017  
Tel: (213) 975-0211 Fax: (213) 202-5773  
Website: [www.naacp.org](http://www.naacp.org)

*Service Provided: Litigation, education, information and legal assistance.*

### **NATIONAL CONFERENCE FOR COMMUNITY AND JUSTICE LOS ANGELES**

Area Served: Greater Los Angeles

Constituency: All

Leesha Brooks  
1055 Wilshire Boulevard, Suite 1615  
Los Angeles, CA 90017-2499  
Tel: (213) 250-8787 Fax: (213) 250-8799  
Website: [www.nccjla.org](http://www.nccjla.org)

*Services Provided: victim counseling, public education and school training.*

### **ORANGE COUNTY HUMAN RELATIONS COMMISSION, HATE CRIME NETWORK**

1300 South Grand Avenue, Bldg. B  
Santa Ana, CA 92705  
Tel: (714) 567-7470 Fax: (714) 567-7474  
Website: [www.oc.ca.gov/csa/hrc](http://www.oc.ca.gov/csa/hrc)

*Services Provided: Victim counseling and advocacy, intergroup conflict intervention, school programs and, law enforcement hate crime network.*

## LOCAL GOVERNMENT AND COMMUNITY-BASED ORGANIZATIONS, (Continued)

### SACRAMENTO FAIR HOUSING AND HUMAN RIGHTS COMMISSION

1112 "I" Street, Suite 250  
Sacramento, CA 95814  
Tel: (916) 444-6903 Fax: (916) 444-6630  
Website: [www.humanrightsfairhousing.com](http://www.humanrightsfairhousing.com)

*Services Provided: Critical Incident Response Team (CIRT), victim counseling, data collection and law enforcement liaison.*

### SAN DIEGO CITY HUMAN RELATIONS COMMISSION

1200 3<sup>rd</sup> Street, Suite 916  
San Diego, CA 92101  
Tel: (619) 236-6720 Fax: (619) 236-6423  
Email: [Chernandez@sanidiego.gov](mailto:Chernandez@sanidiego.gov)

### SANTA BARBARA COUNTY HUMAN RELATIONS COMMISSION, HATE CRIME NETWORK

1100 Anacapa Street, 1<sup>st</sup> Flr.  
Santa Barbara, CA 93101  
Tel: (805) 884-6800 Fax: (805) 884-6801  
Email: [kdavis@co.santa-barbara.ca.us](mailto:kdavis@co.santa-barbara.ca.us)

### SANTA CLARA COUNTY HUMAN RELATIONS COMMISSION, HATE FREE COMMUNITY

70 West Hedding Street  
West Wing Lower Level  
San Jose, CA 95110-1705  
Tel: (408) 792-2305 Fax: (408) 297-2463  
Hotline: (408) 297-0111 (24 hours)  
Website: [www.hateistheenemy.com](http://www.hateistheenemy.com)

*Services Provided: Critical Incident Response Team (CIRT), victim counseling and law enforcement liaison.*

### SONOMA COUNTY HUMAN RIGHTS COMMISSION

2300 County Center Drive, B-167  
Santa Rosa, CA 95403  
Tel: (707) 565-2963 Fax: (707) 565-3166  
Email: [Njaillet@sonoma-county.org](mailto:Njaillet@sonoma-county.org)

*Services Provided: Victim counseling, referrals to law enforcement trained in hate crimes, and hate free city and schools programs.*

## UNITED STATES GOVERNMENT OFFICES

### UNITED STATES ATTORNEY

Eastern District, California  
Victim Witness Unit  
501 I Street Suite 10-100  
Sacramento, CA 95814-2322  
Toll-free: 1-888-873-3480  
Email: [helene.tennette@usdoj.gov](mailto:helene.tennette@usdoj.gov)

*Services Provided: School/school resource officer training, victim assistance.*

### UNITED STATES DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS

50 UN Plaza Room 239  
San Francisco, CA 94102  
Tel: (415) 556-4275 Fax: (415) 556-7783  
Website: [www.ed.gov](http://www.ed.gov)

*Services Provided: Provides technical assistance for educational institutions and investigates claims of discrimination.*

### UNITED STATES DEPARTMENT OF JUSTICE, COMMUNITY RELATIONS SERVICE

888 South Figueroa Street, Suite 1880  
Los Angeles, CA 90017  
Tel: (213) 894-2941 Fax: (213) 894-2880  
E-mail: [ronald.wakabayashi@usdoj.gov](mailto:ronald.wakabayashi@usdoj.gov)

*Services Provided: Community Assessments, school technical assistance and training, police technical assistance and training, school-law enforcement memorandums of understanding (MOU's).*

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# LAWS AND COURT DECISIONS PERTAINING TO HATE VIOLENCE

## California Statutes

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## Important United States Supreme Court Hate Crime Cases

# LAWS AND COURT DECISIONS PERTAINING TO HATE VIOLENCE

## CALIFORNIA STATUTES

### Civil Statutes

**The Ralph Act**, Civil Code §§ 51.7 and 52, provides that a person has a civil right to be free of violence or intimidation by the threat of violence against the person or his or her property, because of the person's race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, disability or position in a labor dispute, or because the person is perceived to have one or more of these characteristics.

The Act is enforced by the Department of Fair Employment and Housing (DFEH), the Attorney General, and by any district or city attorney. **DFEH Statewide Toll-Free Numbers: Hate Violence, Employment, and Public Accommodations: 800-884-1684; TTY (800) 700-2320; Housing (800)-233-3212; <http://www.dfeh.ca.gov>.** Private individuals can also file suit using a private attorney or by filing a complaint with DFEH.

The Ralph Act provides for civil penalties of \$25,000, actual damages (up to \$150,000 if an administrative action is pursued by the DFEH), punitive damages, attorney's fees, and court orders banning the unlawful behavior.

**The Bane Act**, Civil Code § 52.1 and Penal Code § 422.6 et seq., provides protection from interference by threats, intimidation, or coercion or from attempts to interfere with someone's state or federal statutory or constitutional rights (these include association, assembly, due process, education, employment, equal protection, expression, formation and enforcement of contracts, holding of public office, housing, privacy, speech, travel, use of public facilities, voting, worship, and protection from bodily restraint or harm, from personal insult, from defamation, and from injury to personal relations). Proof that such The Act can be enforced by the Attorney General and any district or city attorney (who may ask for injunctive and other equitable relief, and a civil penalty of \$25,000 for each individual whose rights were violated under this section). Any individual victim may also bring an action for actual and punitive damages, injunctive and equitable relief, and attorney's fees.

Speech alone is not sufficient to support an action under the Bane Act, unless a) the speech threatens violence against a specific person or group of persons; b) the victims reasonably fear that violence will be committed against them or their property; and c) the person threatening the violence has the apparent ability to carry out the threat. No order shall restrict the content of a person's speech.

An order restricting the time, place or manner of any person's speech shall do so only to the extent reasonably necessary to protect the peaceable exercise or enjoyment of the

speaker's constitutional or statutory rights.

### **Liability**

- Perpetrators
- Conspirators
- Acts of agents or employees

### **Standing to Sue**

- Victims, individual, and groups

### **Actual Damages**

- Include medical expenses, impaired earning capacity, lost property value, pain, suffering, emotional distress, loss of services, and other monetary losses or expenses

### **Punitive Damages**

- Victim must prove that defendant acted with malice, fraud or oppression
- Courts will take into account how reprehensible the conduct was, the defendant's financial condition, and the amount of actual damages

### **Temporary Restraining Orders, Preliminary and Permanent Injunctions**

- Means of securing the attention and cooperation of police and law enforcement agencies.
- Bane Act's Civil Code § 52.1 subd. (e) requires that Bane Act injunctive orders be delivered to law enforcement agencies having jurisdiction where the plaintiff resides and any other locations where the court determines that acts of violence against the plaintiff are likely to occur. Two copies are delivered to law enforcement; law enforcement serves one on defendant. If an officer is called to respond to the scene of reported violence, the law enforcement agency is required to provide the responding officer a copy of the order.
- Permits enforcement of injunction by contempt or criminal prosecution.

### **Criminal Statutes (part of the Bane Act)**

**Penal Code § 422.6.** In addition to civil remedies, the Bane Act establishes criminal remedies. § 422.6 subd. (a) makes it unlawful, by force or threat of force, to willfully oppress, injure, intimidate, threaten, or interfere with any person in the free exercise or enjoyment of any right guaranteed by state or federal law because of his or her race, color, religion, ancestry, national origin, disability, gender or sexual orientation or because the victim is perceived to have one or more of these characteristics. § 422.6 subd. (b) provides that it is unlawful to damage a person's real or personal property because of his or her race, color, religion, ancestry, national origin, disability, gender or sexual orientation or because it is perceived that he or she has one or more of the above characteristics. Violations are punishable by up to one year in jail or \$5000 in fines, or both. The court will also order perpetrators to perform up to 400 hours of community service.

**Penal Code § 422.7** provides that crimes committed against a person or his or her property for the purpose of interfering with that person's state or federal rights, on the basis of race, color, religion, ancestry, national origin, disability, gender, or sexual orientation or because the victim is perceived to have one or more of the above characteristics are punishable as felonies (with the exception of persons punished under section 422.6.), if the perpetrator has a previous conviction under Penal Code, section 442.6.

**Penal Code § 422.75** (with the exception of persons punished under section 422.7) provides for sentencing enhancements of one to three years for certain bias-motivated felonies, or against persons perceived to belong to one or more of the protected classes. This section also provides for heightened penalties of one to four years if the defendant acted in concert with another; had a prior hate crime conviction; used a firearm; or committed the crime on certain types of public or private property (i.e., schools, libraries, community centers, meeting halls, places of worship, offices of advocacy groups, etc.). When multiple concurrent motives exist, the prohibited bias must be a substantial factor in bringing about the particular result.

**Penal Code § 422.76** defines gender for purposes of various hate crime statutes as the victim's actual sex or the defendant's perception of the victim's sex. This includes the defendant's perception of the victim's identity, appearance, or behavior, whether or not that identity, appearance or behavior is different from that traditionally associated with the victim's sex at birth.

**Penal Code § 422.9.** Subdivision (a) provides that it is a misdemeanor punishable by up to six months in jail or \$1000 or both to violate an order issued pursuant to the Bane Act. Subdivision (b) provides up to one year in jail for a person previously convicted of violating a Bane Act order. Subdivision (c) mandates that county prosecuting agencies have the primary responsibility for enforcing Bane Act orders.

**Penal Code § 422.95.** Subdivisions (a) and (b) provide that if a person is granted probation for an offense defined in Penal Code §§ 422.6, 422.7, 422.75, 594.3 or 11411, the court may order the defendant to complete a class or program on racial or ethnic sensitivity or other similar training in civil rights if such class or program is available as a condition of probation; to undergo a year of counseling to reduce tendencies towards violent or anti-social behavior; to make payments or other compensation to a community-based program or local agency that provides services to victims of hate violence; and to reimburse the victim for reasonable costs of counseling and other expenses. Any payments or compensation are in addition to restitution payments required under Penal Code § 1203.04. Subdivision (c) states that it is the intent of the Legislature to encourage counties, cities, and school districts to establish education and training programs to prevent violations of civil rights and hate crimes.

## **Criminal Statutes That Can Be Used to Redress Hate Crimes (Other than Bane Act)**

**Penal Code § 136.1** makes it a public offense for those who prevent or dissuade, or attempt to prevent or dissuade, victims or witnesses from giving evidence or making reports, and makes it a felony where the act is accomplished by force or by an express or implied threat of force, or where the defendant previously violated this section.

**Penal Code § 136.2** provides for protective orders. The district attorney or city attorney who is prosecuting the hate crime may seek protective orders to protect victims and witnesses from further harm or intimidation by accused perpetrators.

**Penal Code § 139** creates a felony when a previously convicted felon communicates to witnesses, victims, informants or their immediate families a credible threat to use force or violence.

**Penal Code § 140** creates a misdemeanor when someone communicates to witnesses, victims, informants or their immediate families a credible threat to use force or violence. This section does not require that the perpetrator already be convicted of a related crime.

**Penal Code § 182** broadly prohibits conspiracies to commit crimes of any kind or “any act injurious to the public health, to public morals, or to pervert or obstruct justice, or the due administration of the laws.”

**Penal Code § 185** provides that it is a misdemeanor for any person to wear any mask, false whiskers or any personal disguise (whether complete or partial) for the purpose of evading or escaping discovery, recognition, or identification in the commission of any public offense.

**Penal Code § 186.21** declares that it is the right of every person, regardless of race, color, creed, religion, national origin, gender, age, sexual orientation, or handicap, to be protected from fear, intimidation, and physical harm caused by the activities of violent groups and individuals. (This is part of the “California Street Terrorism Enforcement and Prevention Act,” enacted in 1988.)

**Penal Code § 190.03** provides that a person who commits first-degree murder shall be punished by imprisonment in the state prison for life without the possibility of parole if the person intentionally killed the victim because of the victim’s actual or perceived disability, gender or sexual orientation.

**Penal Code § 190.2 subd. (a)(16)** provides a death penalty or sentence of life in prison without possibility of parole when a person is murdered because of the victim’s race, color, religion, nationality or national origin.

**Penal Code § 302** makes it a misdemeanor to intentionally disturb a group of people who

have met for religious worship with unnecessary noise, profanity, or behavior which is rude and/or indecent.

**Penal Code § 422** defines a threat as a statement made verbally, in writing, or by means of an electronic communication device “so unequivocal, unconditional, immediate, and specific” as to cause a person reasonable fear for the safety of that person or that person’s immediate family.

**Penal Code § 538c** makes it a misdemeanor to attach or insert an unauthorized advertisement in a newspaper offered for sale or made available for free and to redistribute it, or have the intent to redistribute it, to the public.

**Penal Code § 594.1** makes it unlawful for a minor to purchase, or any person or entity other than a parent to provide, a minor with aerosol paint containers in excess of six ounces. In the event of violation of this section, a court can order community service, graffiti removal or counseling.

**Penal Code § 594.3** makes it a felony or misdemeanor to knowingly vandalize a place of worship or cemetery and provides a penalty of up to one year in jail or prison.

**Penal Code § 628 et seq.** requires the collection and reporting of statistics and information on school crime and incidents motivated by hate. A crime or incident is motivated by hate if there is evidence of hostility toward a victim because of his or her “real or perceived race, religion, disability, gender, nationality, or sexual orientation.”

**Penal Code § 640.2** makes it a misdemeanor to stamp, print, place or insert any writing in or on any box, package or other container containing a consumer product offered for sale.

**Penal Code § 1170.75** provides sentence enhancements for felonies committed because of a victim’s race, color, religion, nationality, or country of origin, or because the victim is perceived to have one or more of the above-mentioned characteristics (unless already punished under Penal Code sections 422.75 or 1170.8).

**Penal Code § 1170.8** provides additional punishment for robbery or assault of persons within a place of worship, or for arson of a place of worship.

**Penal Code § 1170.85** provides additional punishment for felonies committed against someone who is particularly vulnerable because of age or disability.

**Penal Code § 1547** authorizes the Governor to offer a reward of up to \$50,000 for information leading to the arrest and conviction of any person who has committed or is charged with the commission of a felony that is punishable under Penal Code §§ 422.75,

11411 or 11413 and that resulted in serious bodily injury or property damage of more than \$10,000. This section also authorizes a reward of up to \$100,000 for information leading to the arrest and conviction of a person committing arson upon a place of worship.

**Penal Code § 11410** states that the urging of violence where harm is possible is conduct not protected by the California Constitution. It is the right of every person, regardless of race, color, creed, religion, gender, or national origin to be secure and protected from fear, intimidation and physical harm caused by the activities of violent groups and individuals.

**Penal Code § 11411** makes it a misdemeanor to place or display signs or markings on the private property of another, without authorization, for the purpose of terrorizing the owner or occupant of that private property or in reckless disregard of the risk of terrorizing the owner or occupant. It also provides that it is a misdemeanor or a felony to engage in a pattern of conduct for the purpose of terrorizing the owner or occupant of private property or in reckless disregard of terrorizing the owner or occupant by placing a racist symbol on that property on two or more occasions. Placing such a symbol or burning or desecrating a cross or other religious symbol on school grounds, for the purpose of terrorizing any person who attends, works at or is otherwise associated with the school is punishable as a felony or misdemeanor.

**Penal Code § 11412** provides that it is a felony to attempt to discourage or prevent religious activities by threats of violence.

**Penal Code § 11413** provides that it is a felony to use a bomb against or set fire to a place of worship, any office or building where those who counsel, lobby, or publicize for or against abortion meet or organize, any bookstore or public or private library, any courthouse, the home or office of any judicial officer, any building occupied by probation officers, any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, or any private property, if the property was targeted because of the race, color, religion, ancestry, national origin, disability, gender or sexual orientation of the owner or occupant of the property and the purpose was to terrorize another or was in reckless disregard of terrorizing another.

**Penal Code § 11460** makes it illegal to gather as a paramilitary organization or to instruct others in the use of firearms or explosives with the intent to cause civil disorder.

**Penal Code § 12071.4(b)(3)** provides that all gun show or event vendors shall certify in writing to the producer that they will not engage in activities that incite or encourage hate crimes.

**Penal Code § 13023** requires the Attorney General to collect statistical information on hate crimes and defines hate crimes as “any criminal acts or attempted criminal acts to cause physical injury, emotional suffering, or property damages where there is a reasonable cause

to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, gender, sexual orientation, national origin, or physical or mental disability."

**Penal Code § 13519.6** provides that the Peace Officer Standards and Training Commission shall develop guidelines and a course of instruction and training in hate crimes for law enforcement officers. Hate crime for the purpose of this section means any act of intimidation, harassment, physical force, or threat of physical force, directed against any person, or family, or their property or their advocate, motivated either in whole or in part by the hostility to the real or perceived ethnic background, national origin, religious belief, gender, age, disability or sexual orientation of that person with the intention of causing fear and intimidation.

### **Education Code Provisions Relating to Hate Crimes**

**California Student Safety and Violence Prevention Act of 2000 (Education Code §§ 200, 220, 220.5, 241, 66251, 66270, 66270.5)** prohibits discrimination in schools on any basis covered by the Bane Act. Schools run by religious organizations may be excepted.

**Education Code § 233** requires the State Board of Education to adopt policies aimed at creating school environments free from discriminatory attitudes and practices and acts of hate violence. The Board is required to revise the school curriculum to include human relations education that will foster an appreciation of California's diversity and discourage discriminatory attitudes. The Board must also establish guidelines for teacher and administrator training programs to promote an appreciation of diversity, raise awareness among school staff to potentially prejudicial and discriminatory behavior, and enable school staff to prevent and respond to hate violence.

**Education Code §§ 32228 and 32228.1** provide that public schools serving pupils in grades 8 to 12, inclusive, should have access to supplemental resources and funding to combat bias and respond to hate violence.

**Education Code §§ 48900.3 and 48915** provide that among the grounds for the suspension or expulsion of a pupil in grades four through 12 is now the attempt to cause, threat to cause, or participation in an act of hate violence.

### **California's Victims of Crime Program**

Under Government Code §§ 13959-13969.4, some crime victims may be eligible for financial assistance for unreimbursed expenses resulting from the crime.



## IMPORTANT CALIFORNIA CASES INTERPRETING CALIFORNIA HATE CRIME STATUTES

### California Supreme Court Cases

People v. Toledo (2001) 26 Cal.4th 221; (Defendant was guilty of the crime of attempted criminal threat, a crime based on the interplay of Penal Code § 422 and the statutory provisions for criminal attempt.) The California Supreme Court identified the five elements of criminal threats (Penal Code section 422), all of which must be present:

1. A willful threat to commit a crime that will result in death or great bodily injury to another.
2. The threat was made with the specific intent that the statement be taken as a threat, even if there is no intent to actually carry it out.
3. The threat:
  - a. was made verbally, in writing, by means of an electronic communication device, and
  - b. was on its face, and under the circumstances in which it was made, so unequivocal, unconditional, immediate, and specific as to convey to the person threatened a gravity of purpose and an immediate prospect of execution.
4. The threat actually caused the target to be in sustained fear.
5. The target's fear was reasonable under the circumstances.

Jones v. KMart Corp. (1998) 17 Cal.4th 329 (When a Bane Act claim is based on a constitutional right that can only be violated by state action, an action only lies against parties whose conduct is chargeable to the state, not against store employees who engaged in aggressive search and seizure.)

In re M. S. (1995) 10 Cal.4th 698 ( California Supreme Court upheld the constitutionality of California's hate crime statutes, rejecting defense claims that the laws are overbroad, vague, or impermissible content-based regulation of speech; the court also ruled that when a defendant has multiple motives for committing a crime, the kind of bias prohibited by the hate crime law must be a substantial factor in bringing about the crime before the crime will be considered a hate crime.)

People v. Superior (Aishman) (1995) 10 Cal.4th 735 (Penal Code § 422.75, which provides for imposition of a sentence enhancement for felonies committed because of the victim's actual or perceived race, color, nationality, country or origin, ancestry, disability or

sexual orientation, does not need to be read to include a specific intent requirement; this section will also be interpreted to require that when multiple concurrent causes for the offense exist, if the bias motivation is a substantial factor in bringing about the offense, the perpetrator's sentence can be enhanced.)

### **California Court of Appeals Cases**

In re Michael M. (2001) 86 Cal.App.4th 718 (Penal Code § 422.6 subd. (b) did not expressly require that the victim own the property marked by threatening epithets; as long as the property was regularly and openly used, possessed, or occupied by the victim so that it was readily identifiable with him or her, it fell within the statutory scope.)

People v. Carr (2000) 81 Cal.App.4th 837 (Voluntary intoxication was no defense to crime of cross burning without authorization; thus evidence of drinking was properly excluded. Victims' teenage son was not entitled to authorize the cross burning on his parents' property.)

Bay Area Rapid Transit Dist. v. Superior Court (1995) 38 Cal.App.4th 141 (The Bane Act is not a wrongful death provision. It provides a personal cause of action for the victim of a hate crime and is thus limited to plaintiffs who themselves have been the subject of violence or threats.)

Gates v. Superior Court (1995) 32 Cal.App.4th 481 (Defendant police officers were immune from Ralph Act claim for money damages because of immunity provided by Government Code § 845.)

People v. MacKenzie (1995) 34 Cal.App.4th 1256, review den. (1995) (In prosecution for the hate crime of brandishing a firearm for the purpose of interfering with the civil rights of an African American, court held that Penal Code § 422.7 was not void for vagueness; prosecution need not show that defendant acted with knowledge of particular provisions of state or federal law or that he was even thinking in those terms; it is sufficient if the right is clearly defined and the defendant intended to invade interests protected by constitutional or statutory authority; § 422.7 does not violate equal protection principles since it properly punishes the discriminating violent offender more harshly than the random violent offender; the statute regulates conduct, not speech.)

Bocato v. City of Hermosa Beach (1994) 29 Cal.App.4th 1797 (The court affirmed the dismissal as to the Bane Act and 42 U.S.C. § 1983 because appellants failed to allege violations of the rights of the protected classes set forth in the statutes and failed to claim that the alleged deprivation was committed by a person acting under color of state law.)

\*\*\*Note: The California legislature specifically superseded this ruling and indicated that it was in error in its 2000 Amendment to the Bane Act (Stats. 2000, ch. 98, § 1).

In re Steven S. (1994) 25 Cal.App.4th 598, review den. (1994) (Court upheld the constitutionality of a cross-burning statute.)

In re Joshua H. (1993) 13 Cal.App.4th 1734, review den. (1993) (Penal Code § 422.7 does not violate the First Amendment; it does not proscribe expression, but proscribes the conduct of selecting crime victims on the basis of race, color, religion, ancestry, national origin or sexual orientation.)

People v. Fisher (1993), 12 Cal.App.4th 1556 (Court upheld constitutionality of Penal Code § 422 and rejected arguments that it was overbroad, criminalized protected speech, and was intended to apply only to gang-related activity.)

In re David L. (1991) 234 Cal.App.3d 1655, review den. (1992) (Penal Code § 422 does not require showing of gang membership; threat to intended victim can be conveyed through third party; person making threat must have specific intent that it be taken as a threat but need not have intent to carry out threat.)

People v. Lashley (1991), 1 Cal.App.4th 938, review den. (1992), cert. den., (1992) (Court held that Penal Code §§ 422.6 and 422.7 require proof that the defendant possessed a specific intent to deprive an individual of a right secured by federal or state law, and that the evidence supported the conclusion that defendant interfered with the victims in their exercise and enjoyment of the right to be free from violence.)

J.R. Norton Co. v. General Teamsters, Warehousemen and Helpers Union, Local 890 (1989) 208 Cal.App.3d 430 (Violence by striking employees constituted a violation of the Bane Act and warranted a civil penalty.)

Coon v. Joseph (1987) 192 Cal.App.3d 1269 (Plaintiff, who witnessed attack on male lover, was not allowed to bring suit under Ralph Act.)

### **FEDERAL CASES INTERPRETING CALIFORNIA HATE CRIME LAWS**

Hughes v. Alameda Hospital (N.D.Cal. 2001) 2001 U.S. Dist. LEXIS 6053 (Defendants' summary judgment granted because plaintiff failed to prove differential treatment on basis of race or sex. Note: Despite the Bane Act amendment passed in response to Boccatto, the Hughes court followed Boccatto in saying that a plaintiff must allege that interference is "due to a listed protected trait." It should be noted that the discriminatory acts occurred prior to the legislative clarification of the Bane Act in 2000.)

Egan v. Schmock (N.D.Cal. 2000) 93 F.Supp.2d. 1090 (Ralph Act and Fair Employment and Housing Act claims dismissed because plaintiffs failed to show that defendants

intended to drive them from their home; Bane Act claim dismissed with leave to amend; motion to dismiss denied as to plaintiffs' privacy claim.)

Nelson v. City of Irvine (9th Cir. 1998) 143 F.3d 1196 (Bane Act claim dismissed because plaintiffs failed to allege that police interfered with their federal constitutional rights or their rights under California's implied consent statute based on membership in a protected class when they were forced to take blood tests, rather than breath or urine tests, after being arrested for driving under the influence.)

Beliveau v. Caras (C.D.Cal. 1995) 873 F.Supp. 1393 (Plaintiff had a Ralph Act claim against the owner of her apartment building for the sexual battery committed by his employee, the resident manager, while he was in her apartment to fix a leaky faucet.)

Gaston v. Colio (S.D.Cal. 1995) 883 F.Supp. 508 (Because plaintiff's complaint lacked an allegation of discrimination, plaintiff had no standing under Ralph Act or Bane Act.)

Rabkin v. Dean (N.D.Cal. 1994) 856 F.Supp. 543 (Interference with rights must rise to violence or threat of violence to be actionable under the Bane Act.)

Aciri v. Varian Assocs. (1997 7th Cir.) 114 F.3d 99 (no obligation on federal courts to conduct a 1367(c) analysis).

Reynolds v. County of San Diego (9th Cir. 1996) 84 F.3d 1162. Because a deputy sheriff did not violate shooting victim's federal or constitutional rights when he shot man who pulled knife on him, district court county dismissed estate's Bane Act claim.

Burnette v. Godshall (N.D.Cal. 1993) 828 F.Supp. 1439 (An individual's Ralph Act rights are non-negotiable, and thus may not be preempted by collective bargaining agreements).

Doe v. Petaluma City School Dist. (N.D.Cal. 1996) 949 F.Supp. 1415 (intentional discrimination results where an entity knew or should have known of hostile environment and failed to take remedial action.

Rose v. City of Los Angeles (C.D.Cal. 1993) 814 F.Supp. 878 (A claim under the Ralph Act may not be brought when no violence or intimidation has been committed or threatened against the plaintiff.)

Diem v. City and County of San Francisco (N.D.Cal. 1988) 686 F.Supp. 806 (Ralph Act claims for religious and other discrimination are not preempted by the Fair Employment and Housing Act, Government Code § 12900 et seq.)

## FEDERAL HATE CRIME STATUTES

### Federal Criminal Statutes

**18 U.S.C. § 241** broadly prohibits conspiracies to injure any person in his or her exercise of rights protected by the Constitution or laws of the United States. It has been applied to a variety of federal rights, including the right to hold property, the right to enjoy public accommodations, and the right to occupy a home free from racially-motivated violence.

**18 U.S.C. § 242** prohibits willful deprivation of constitutional and federal statutory rights by reason of race, color, or ethnicity, or on account of one's alien status. This is most frequently used to prosecute violent misconduct by law enforcement officials, but can also be applied against other officials or anyone purporting to be an official while committing such acts as sexual assault or deprivation of due process.

**18 U.S.C. § 245** was enacted in 1968 in response to violent attacks on civil rights workers in the South. It is the main legal vehicle for bringing federal hate crime claims. It prohibits intentional interference, by force or threat of force, with certain specified constitutional rights, where the interference is motivated by race, color, religion, or national origin. Activities protected under this law include:

- Enrollment in a public school or college.
- Participation in programs administered or financed by any state.
- Federal and state employment and jury service.
- Interstate travel by common carrier.
- Use of restaurants, lodging, gas stations, public entertainment facilities, and other establishments serving the public.

**18 U.S.C. § 247** prohibits damaging or destroying religious property because of its religious nature, or because of the race, color, or ethnic characteristics of any individual associated with that property.

**42 U.S.C. § 3631** prohibits forcible interference with any person in selling, purchasing, renting, financing, occupying, or contracting for any dwelling due to that person's race, color, religion, gender, national origin, disability or family status.

**18 U.S.C. Appx. § 3A1.1** provides sentence enhancements in federal cases where a criminal chooses the victim or his or her property on the basis of the actual or perceived race, color, religion, national origin, ethnicity, gender, disability or sexual orientation of that person.

## **Federal Civil Statutes**

**42 U.S.C. §§ 1981 and 1982** originated in Section 1 of the Civil Rights Act of 1866, enacted by Congress shortly after ratification of the Thirteenth Amendment, which prohibited slavery.

§ 1981 states that “all persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.”

§ 1982 ensures equal rights for citizens in terms of personal property.

Damage awards under both sections can include compensatory damages for emotional distress or humiliation. Punitive damages and injunctive relief are also available.

**42 U.S.C. § 1985(3)** was enacted by Congress as part of the Ku Klux Klan Act to provide redress for victims of Klan offenses during Reconstruction. It imposes civil liability on anyone who conspires to deprive another individual or class of people of “the equal protection of the laws or of equal privileges and immunities under the laws.” Compensatory and punitive damages can be awarded under this section.

**42 U.S.C. § 1986** provides a civil cause of action against those who know about, but fail to prevent, conspiracies to commit wrongful acts of the type defined in § 1985. Those charged may be liable for all damages caused by the wrongful act.

**42 U.S.C. § 3617** provides a statutory civil cause of action for anyone coerced, threatened, intimidated, or interfered with for exercising rights granted under §§ 3603, 3604, 3606 of the Fair Housing Act. **(Housing and Urban Development Hotline: 1 (800) 669-9777 and 1 (800) 927-9275 (TTY) for intake and 1 (800) 967-7468 for information and materials pertaining to housing laws and HUD programs.)**

**28 U.S.C. § 534 (Federal Hate Crime Statistics Act)** requires the U.S. Attorney General to collect data and publish an annual summary on crimes involving prejudice based on race, religion, disability, sexual orientation or ethnicity. The Attorney General has delegated these responsibilities to the director of the FBI, and the FBI’s Uniform Crime Reports Section develops the procedures for and manages the implementation of the collection of hate crime data. The data helps to identify the geographical location and the nature and types of bias crime occurring in the United States.

**20 U.S.C. § 7133 et seq.** provides grants to educational agencies and community-based organizations for the purpose of providing assistance to localities most directly affected by hate crimes.

### IMPORTANT UNITED STATES SUPREME COURT HATE CRIME CASES

Apprendi v. New Jersey (2000) 530 U.S. 466 (Court struck New Jersey's sentence enhancement law because it allowed judges to extend maximum prison terms in hate crimes cases; due process dictates that only juries can enhance maximum sentences on the basis of proof beyond reasonable doubt. This case is distinguished from the Mitchell case, *supra*, in that Mitchell focused on the constitutionality of the substantive basis of the sentence enhancement law, whereas Apprendi dealt with procedural validity; case has limited application in California because juries are already required by law to decide if sentences should be enhanced.)

Wisconsin v. Mitchell (1993) 508 U.S. 476 (Mitchell's First Amendment rights were not violated by the application of a penalty enhancement provision for hate crimes; Wisconsin statute is aimed at conduct unprotected by the First Amendment; state's desire to redress greater individual and societal harm inflicted by bias-inspired conduct was motive for passing statute, not disagreement with offenders' beliefs or biases; statute has no chilling effect on free speech.)

R.A.V. v. City of St. Paul (1992) 505 U.S. 377 (Supreme Court struck down city ordinance proscribing messages of racial, gender, or religious intolerance, because it made criminal only those types of expression which were disfavored by the city council; this was held to be impermissible content-based restriction of speech.)

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